

PART 6102—CROP INSURANCE CASES

Sec.

6102.201 Scope of rules [Rule 201].

6102.202 Rules for crop insurance cases [Rule 202].

AUTHORITY: 7 U.S.C. 1501 et seq.; 41 U.S.C. 438(c)(2).

SOURCE: 72 FR 36816, July 5, 2007, unless otherwise noted.

6102.201 Scope of rules [Rule 201].

These procedures govern the Board's resolution of disputes between insurance companies and the Department of Agriculture's Risk Management Agency (RMA) involving actions of the Federal Crop Insurance Corporation (FCIC). Prior to the creation of this Board, the Department of Agriculture Board of Contract Appeals resolved this variety of dispute pursuant to statute, 7 U.S.C. 1501 et seq. (the Federal Crop Insurance Act), and regulation, 7 CFR 24.4(b) and 400.169. The Board has this authority under an agreement with the Secretary of Agriculture, as permitted under section 42(c)(2) of the Office of Federal Procurement Policy Act, 41 U.S.C. 438(c)(2).

6102.202 Rules for crop insurance cases [Rule 202].

The rules of procedure for these cases are the same as the rules of procedure for Contract Disputes Act appeals, with these exceptions:

(a) *Rule 1.* (1) In 6101.1(b)(1) (Rule 1(b)(1)), the term "appeal" means a dispute between an insurance company that is a party to a Standard Reinsurance Agreement (or other reinsurance agreement) and the RMA, and the term "appellant" means the insurance company filing an appeal.

(2) In 6101.1(b)(5)(i) (Rule 1(b)(5)(i)), a notice of appeal is filed upon its receipt by the Office of the Clerk of the Board, not when it is mailed.

(3) Section 6101.1(b)(7) (Rule 1(b)(7)) does not apply to FCIC cases.

(b) *Rule 2.* (1) Section 6101.2(a)(1)(i) (Rule 2(a)(1)(i)) is replaced with the following for FCIC cases: A notice of appeal shall be in writing and shall be signed by the appellant or by the appellant's attorney or authorized rep-

resentative. If the appeal is from a determination by the Deputy Administrator of Insurance Services regarding an action alleged not to be in accordance with the provisions of a Standard Reinsurance Agreement (or other reinsurance agreement), or if the appeal is from a determination by the Deputy Administrator of Compliance concerning a determination regarding a compliance matter, the notice of appeal should describe the determination in enough detail to enable the Board to differentiate that decision from any other; the appellant can satisfy this requirement by attaching to the notice of appeal a copy of the Deputy Administrator's determination. If an appeal is taken from the failure of the Deputy Administrator to make a timely determination (see 6101.2(b)(1)(ii) (Rule 2(b)(1)(ii))), the notice of appeal should describe in detail the matter that the Deputy Administrator has failed to determine; the appellant can satisfy this requirement by attaching to the notice of appeal a copy of the written request for a determination it sent to the Deputy Administrator.

(2) In 6101.2(a)(1)(ii) and (iii) (Rule 2(a)(1)(ii) and (iii)), the references to "contracting officer" are references to "Deputy Administrator."

(3) Section 6101.2(a)(2) (Rule 2(a)(2)) does not apply to FCIC cases.

(4) In 6101.2(b)(1)(i) (Rule 2(b)(1)(i)), an appeal from a determination of a Deputy Administrator shall be filed no later than 90 calendar days after the date the appellant receives that determination. The Board is authorized to resolve only those appeals that are timely filed.

(5) In 6101.2(b)(1)(ii) (Rule 2(b)(1)(ii)), an appeal may be filed with the Board if the Deputy Administrator fails or refuses to issue a determination within 90 days after the appellant submits a request for a determination.

(c) *Rule 4.* (1) In 6101.4 (Rule 4), the references to "contracting officer" are references to "Deputy Administrator."

(2) In 6101.4(a), paragraphs (1) through (7) (Rule 4(a), paragraphs (1) through (7)), describing materials included in the appeal file, are replaced by the following:

(i) The determination of the Deputy Administrator that is the subject of the dispute;

(ii) The reinsurance agreement (with amendments or modifications) at issue in the dispute;

(iii) Pertinent correspondence between the parties that is relevant to the dispute, including prior administrative determinations and related submissions;

(iv) Documents and other tangible materials on which the Deputy Administrator relied in making the underlying determination; and

(v) Any additional material pertinent to the authority of the Board or the resolution of the dispute.

(3) The following subsection is added to 6101.4 (Rule 4): Media on which appeal file is to be submitted. All appeal file submissions, including the index, shall be submitted in two forms: paper and in a text or .pdf format submitted on a compact disk. Each compact disk shall be labeled with the name and docket number of the case. The judge may delay the submission of the compact disk copy of the appeal file until the close of the evidentiary record.

(d) *Rule 5.* In 6101.5(a)(2) (Rule 5(a)(2)), the references to “contracting officer” are references to “Deputy Administrator.”

(e) *Rule 6.* In 6101.6(d) (Rule 6(d)) does not apply to FCIC cases.

(f) *Rule 12.* In 6101.12(a) (Rule 12(a)), the references to “contracting officer” are references to “Deputy Administrator.”

(g) *Rule 15.* In 6101.15(d) (Rule 15(d)), the final sentence does not apply to FCIC cases.

(h) *Rule 16.* In 6101.16(b) through (h) (Rule 16(b) through (h)) do not apply to FCIC cases. Instead, upon the written request of any party filed with the Office of the Clerk of the Board, or upon the initiative of a judge, a judge is authorized by delegation from the Secretary of Agriculture to request the appropriate United States Attorney to apply to the appropriate United States District Court for the issuance of subpoenas pursuant to 5 U.S.C. 304.

(i) *Rule 21.* (1) In 6101.21(f) (Rule 21(f)), the final sentence does not apply to FCIC cases.

(2) In 6101.21(g) (Rule 21(g)), the final sentence does not apply to FCIC cases.

(j) *Rule 25.* In 6101.25(a) (Rule 25(a)), the initial phrase, “Except as provided in 6101.52 (Rule 52) (small claims procedure),” does not apply to FCIC cases.

(k) *Rule 32.* In 6101.32(a) through (c) (Rule 32(a) through (c)) are replaced with the following for FCIC cases:

(1) *Finality of Board decision.* A decision of the Board is a final administrative decision.

(2) *Appeal permitted.* An appellant may file suit in the appropriate United States District Court to challenge the Board’s decision. An appellant which files such a suit shall provide the Board with a copy of the complaint.

(l) *Rule 52.* 6101.52 (Rule 52) does not apply to FCIC cases.

(m) *Rule 53.* 6101.53 (Rule 53) does not apply to FCIC cases.

PART 6103—TRANSPORTATION RATE CASES

Sec.

6103.301 Scope [Rule 301].

6103.302 Filing claims [Rule 302].

6103.303 Responses to claims [Rule 303].

6103.304 Reply to the audit division and agency responses [Rule 304].

6103.305 Proceedings [Rule 305].

6103.306 Decisions [Rule 306].

6103.307 Reconsideration of Board decision [Rule 307].

6103.308 Payment of successful claims [Rule 308].

AUTHORITY: 31 U.S.C. 3726(i)(1); 41 U.S.C. 601–613; Sec. 201(o), Pub. L. 104–316, 110 Stat. 3826.

SOURCE: 72 FR 36816, July 5, 2007, unless otherwise noted.\

6103.301 Scope [Rule 301].

(a) *Authority.* 31 U.S.C. 3726(i)(1) provides that a carrier or freight forwarder may request the Administrator of General Services to review an action taken by the Audit Division of the General Services Administration’s Office of Transportation and Property Management (the Audit Division). The Administrator has redelegated those functions to the Civilian Board of Contract Appeals.

(b) *Type of claim; review of claim.* These procedures are applicable to the review of claims made by a carrier or freight forwarder pursuant to 31 U.S.C.